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CONTACT:
Richard Maulsby
Brigid Quinn
703-305-8341

FACTS ON PATENTING LIFE FORMS HAVING A RELATIONSHIP TO HUMANS

The Patent and Trademark Office (PTO) is charged with the responsibility of administering the patent laws of the United States, as interpreted by the Supreme Court and other courts. Thus, the PTO fully applies the law without discriminating against a particular field of technology. In accordance with patent laws, whoever invents a new and useful process, machine, manufacture or composition of matter, may obtain a patent if the statutory conditions and requirements are satisfied.

No patent is granted for an invention that does not meet the strict patentability requirements set forth in the patent laws contained in title 35 of the United States Code. These include requirements that the invention have utility, be novel and non-obvious, and be adequately described and disclosed so as to enable the making and using of the invention. The PTO will not, therefore, issue a patent for an invention of incredible or specious utility or for inventions whose utilization is not adequately disclosed in the application. Additionally, the courts have interpreted the utility requirement to exclude inventions deemed to be "injurious to the well being, good policy, or good morals of society." *Lowell v. Lewis*, Fed. Cas. No. 8568 (C.C. Mass. 1817) (Story, J.), quoted in *Tol-O-Matic, Inc. v. Proma Product-und Marketing Gesellschaft M.b.H.*, 945 F.2d 1546, 1552, 20 USPQ2d 1332, 1338 (Fed. Cir. 1991).

The Patent and Trademark Office is required by law to keep all patent applications in confidence until such time as a patent may be granted. However, the existence of a patent application directed to human/non-human chimera has recently been discussed in the news media. It is the position of the PTO that inventions directed to human/non-human chimera could, under certain circumstances, not be patentable because, among other things, they would fail to meet the public policy and morality aspects of the utility requirement.